



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/126,884 07/31/98 BERTRAM

M 533/133

EXAMINER

026291 TM02/0730
THOMASON, MOSER AND PATTERSON L.L.P.
595 SHREWSBURY AVE
FIRST FLOOR
SHREWSBURY NJ 07702

NGUYEN, B

ART UNIT

PAPER NUMBER

2661
DATE MAILED:

07/30/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/126,884

Applicant(s)

BERTRAM ET AL.

Examiner

Brian D Nguyen

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on the application filed 7/31/98.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Art Unit: 2661

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "N" is vague and indefinite since "N" is not defined.

Claim 4 recites the limitation "said replacement stream" in line 14. There is insufficient antecedent basis for this limitation in the claim.

Claims 2 and 3 are improperly dependent on claim 1 since the claims disclose a method for inserting a replacement packet while claim 1 discloses a method for forming a transport stream.

Claim 4 is improperly dependent on claim 1 since the claims disclose a method of replacing while claim 1 discloses a method for forming a transport stream.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2661

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

4. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Slattery (6,246,701).

Regarding claim 1, Slattery discloses a method for forming a transport stream having a bit rate BR and N slots, each of the N slots being associated with a respective plurality of non-contiguous transport packets and being separated by N-1 transport packets. The stream includes one or more programs where each program has a bit rate of BR/N. In case of less than N programs being included within the transport stream, NULL packets forming NULL programs are included (see abstract; Fig. 1; col. 3, lines 12-14; col. 5, lines 48-50; col. 9, line 47-col. 10, line 7; col. 10, lines 27-44; and col. 40, lines 28-30).

Regarding claims 2-5, Slattery further discloses examining and replacing NULL packets/programs with replacement packets/programs by inserting the replacement packets/programs into an output transport stream (see abstract; Fig. 1; col. 3, lines 12-14; col. 5, lines 48-50; col. 9, line 47-col. 10, line 7; col. 10, lines 27-44; and col. 40, lines 28-30).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2661

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Nguyen whose telephone number is (703) 305-5133. The examiner can normally be reach on Monday-Thursday from 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms, can be reach on (703) 305-4703. The fax phone number for this Group is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700

Any response to this action should be mailed to:

Commissioner of Patens and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for formal communications intended for entry)

Or:

(703) 872-9314 (for informal or draft communications, please label

"PROPOSED" or DRAFT")

Hand-delivered response should be brought to Crystal Park II, 2021 Crystal Drive,
Arlington VA., Sixth Floor (Receptionist).

Application/Control Number: 09/126,884

Page 5

Art Unit: 2661

Jul. 25, 2001

BN

Brian Nguyen



**ALPUS H. HSU
PRIMARY EXAMINER**